Docket JP919990715US1

Appl. No.: 09/438,645
Filed: November 12, 1999

In the United States Patent and Trademark Office

In re the application of:	)	
Brian Garry Jenkin	)	
	)	
Filed: November 12, 1999	)	**Group Art Unit:** 2157
	)	
For: Performance Testing of	)	
Server Systems	)	**Examiner:** Gregory G. Todd
	)	
Appl. No.: 09/438,645	)	
	)	
Applicant's Docket:	)	
JP919990715US1	)	

CERTIFICATE OF Facsimile Transmission

I hereby certify that this correspondence is being transmitted via facsimile to USPTO Group Art Unit

2157 at telephone number 703-746-7239, and to the attention of Examiner Gregory G. Todd on

_8/28/2003_

Anthony V.S. England   Date   8/28/2003

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INTERVIEW SUMMARY

On July 23, 2003 Examiner and Attorney had a telephone interview in which Attorney requested

clarification regarding Examiner's interpretation of the Wang reference relied upon for the

rejection of claim two in the present application. In particular Attorney requested clarification

regarding the asserted teaching in the reference that all live maps are for a single application. It

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was Attorney's understanding that Examiner explained his contention as follows. Wang teaches

at about column 3, line 55, that a performance measurement server is running only a single

program, the SAP R3 program, and that therefore any live maps are inherently for a single

programming application. Attorney did not agree or disagree with this contention, but indicated

that he would study this further.

On August 14, 2003, after further study, Attorney left a voice message for Examiner stating that

at about column 3, line 60, Wang indicates that the server is also running a second program, and

therefore there is nothing that inherently limits the situation in Wang such that any live maps are

for a single application. Attorney offered that he is willing to consider amending the claims to

indicate that more than one application is running but that the live maps are limited to only live

maps for a single application, in order to clarify that the claims are not anticipated by a situation

in which the reason the live maps are for a single application is that there is only one application

running.

In the voice message Attorney also reiterated his contention, which was stated in a previous

written reply, regarding who is measuring the performance. That is, claim two in the present

application states that the measuring is performed by the client or the server, i.e., by the systems

that are in communication with each other and not by a third system as in the Wang patent. In a

previous response to this point Examiner had indicated essentially that a first server in

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communication with the client and a second server acting as a sniffer in the Wang patent could

be considered as a single server entity. In a voice message, Attorney offered that he would

consider amending the claims in the present application in some manner that would indicate that

the performance is not measured by multiple systems (other than the server or client in

communication with one another) that are considered collectively to be a single entity.

In the voice message Attorney also requested that Examiner discuss the case with Attorney by

telephone when Examiner takes it up.

On August 22, 2003, Attorney returned to his office after an absence and reviewed a facsimile

message Examiner had sent on August 8, 2003, summarizing the interview of July 23rd. In this

summary Examiner explains his contention in a slightly different manner than that which was

understood by Attorney in the interview. Examiner states that Wang teaches a client and server

communicate with each other only by a single application, the SAP R3 program. Attorney

respectfully feels that the teaching of Wang could be subject to a different interpretation. That is,

Wang teaches that the SAP R3 program (i.e., application) "provides information and services to

the client applications that access the server application." Attorney feels that it is reading too

much into this statement to contend that this teaches that the SAP R3 program is the means by

which the clients communicate with the server, and, even further, that it is necessarily the only

means.

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